

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

VALERY JOSAPHAT,
Petitioner,

Civil Action No. 04-1055

v.

Chief Judge Donetta W. Ambrose
Magistrate Judge Lisa Pupo Lenihan

FRANK D. GILLIS, et al,
Respondents.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. RECOMMENDATION

It is recommended that this case be closed for failure to prosecute.

II. REPORT

On July 16, 2004, Petitioner Valery Josaphat submitted with this Court a Petition for Writ of Habeas Corpus. Thereafter, the undersigned issued an Order notifying Petitioner that his habeas petition would not be processed any further for failure to comply with the Federal Rules and Local Rules and that if he wished to proceed he must include \$5.00 for a filing fee or move to proceed *in forma pauperis* by December 28, 2004. (Doc. 2).

Petitioner did not respond to the Order. To date, no additional activity has occurred on the docket. Accordingly, it is respectfully recommended that this case be closed for failure to prosecute.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, Petitioner is allowed ten (10) days

from the date of service to file objections to this report and recommendation.¹ Failure to file timely objections may constitute a waiver of any appellate rights.

Dated: 9-20-05


Lisa Pupo Lenihan
UNITED STATES MAGISTRATE JUDGE

cc: The Honorable Donetta W. Ambrose

Valery Josaphat
EG-4488
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866-1021

¹ Petitioner's records at SCI Coal, of which this Court may take judicial notice, indicate that he was paroled on October 5, 2004. He has not provided this Court with current address information.